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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,672	09/30/2003	Marcus Kellerman	14973US02	5006
23446 7590 12/20/2010 MCANDREWS HELD & MALLOY, LTD 500 WEST MADISON STREET SUITE 3400 CHICAGO, IL 60661				
EXAMINER				
SCHNURR, JOHN R				
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2421				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/674,672

**Applicant(s)**

KELLERMAN ET AL.

**Examiner**

JOHN SCHNURR

**Art Unit**

2421

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 October 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This Office Action is in response to the Amendment After Non-Final Rejection filed 10/14/2010. Claims 1-29 are pending and have been examined.

#### ***Response to Arguments***

2. Applicant's arguments filed 10/14/2010 have been fully considered but they are not persuasive.

In response to applicant's argument that Novak (US 2002/0104099) discloses "two distinct roles for user within the media system," the examiner respectfully disagrees. As has been previously explained the upload source 122 and set top box 152 can be the same device ([0061]). The distinction between uploaders and users is for explanation purposes only and it is clear from Novak's complete disclosure that the two roles can be played by the same device, stb 152.

In response to applicant's argument that Novak does not disclose "receiving authentication information associated with a first user of the first communication device, and facilitating a display of a user-defined selection from the media content by the first communication device in a user-defined layout," the examiner respectfully disagrees. Novak requires a password to view the synthetic channel ([0084]) and the synthetic channel is arranged by the user ([0063]).

In response to applicant's argument that there is no teaching, suggestion, or motivation to combine the references, the examiner recognizes that obviousness may be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so

found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988), *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992), and *KSR International Co. v. Teleflex, Inc.*, 550 U.S. 398, 82 USPQ2d 1385 (2007). In this case, the motivation is found in Ellis (US 6,774,926), col. 14 lines 19-23.

In response to applicant's argument that Ellis does not disclose "the media content is arranged in a user-defined layout," the examiner respectfully disagrees. Ellis clearly teaches user-defined schedules are directly provided to viewers (col. 5 lines 18-22, col. 7 lines 27-47 and col. 13 line 66 to col. 14 line 22).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over

**Novak (US 2002/0104099)** in view of **Ellis et al. (US 6,774,926)**, herein Ellis.

Consider **claim 1**, Novak clearly teaches a system for supporting multiple users of a communication device (**Fig. 1**), comprising:

a first communication device communicatively coupled to a communication network at a first geographic location; (**Fig. 3: STB 308 is coupled to the Internet 302, [0045].**)

media content disposed in the communication network or the first communication device (**Media content can be stored in the STB, Fig. 1 [0032], or on the network, Fig. 3 [0047].**), the media content comprising personal media; (**The content is user created, [0062].**)

a software platform residing on the first communication device ([0077]), the software platform receiving authentication information associated with a first user of the first communication device, **(Fig. 11: Access to the synthetic channel can be password protected, [0084].)** and facilitating a display of a user-defined selection from the media content by the first communication device **(Fig. 11: Block 114, [0085])** in a user-defined layout **(Fig. 7: The user defines the layout of the display, [0063].)**, wherein the software platform is operable to push the media content

wherein the selection from the media content is defined by the first user ([0062]) and corresponds to the received authentication information. **(Only authorized users can view the content, [0084])**

However, Novak does not explicitly teach the software platform is operable to push content arranged in user-defined layout, directly via the communication network to at least a second communication device associated with a second user at a second geographic location for consumption at the second geographic location.

In an analogous art, Ellis, which discloses a system for video distribution, clearly teaches the software platform is operable to push content arranged in the user-defined layout, directly via the communication network to at least a second communication device associated with a second user at a second geographic location for consumption at the second geographic location. **(Fig. 7: Contributor equipment 102 selects when to push personal television channels to viewer equipment 104. The video content can be sent directly with out initially transmitting the content to server equipment. col. 5 lines 18-22, col. 7 lines 27-47, col. 13 line 66 to col. 14 line 22)**

Therefore, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to modify the system of Novak by pushing content arranged in the user-defined layout, directly via the communication network to at least a second communication device associated with a second user at a second geographic location for consumption at the second geographic location, as taught by Ellis, for the benefit of distributing a personal television channel without need of network storage devices.

Consider **claim 2**, Novak clearly teaches the communication network comprises one or more of a third party media server, a media storage server, a broadband access headend, a cable infrastructure, a satellite network infrastructure, a digital subscriber line (DSL) infrastructure, an Internet infrastructure, an intranet infrastructure, a wired infrastructure, a closed communication infrastructure, a local area network, and a wireless infrastructure. **([0045])**

Consider **claim 3**, Novak clearly teaches the communication network comprises the Internet. (**Fig. 3: Internet 302, [0045]**)

Consider **claim 4**, Novak clearly teaches each of the first and second communication devices comprises one or more of a computer, a storage device, a media peripheral, set-top box circuitry, a television, a display, and/or a remote control. (**Fig. 3 STB 308**)

Consider **claim 5**, Novak clearly teaches the media content comprises one or more of third party media content, user-created media content, digital video, digital images, digital audio, documents, files, broadcast television programs, radio channels, news programming, sporting events programming, special programming, and/or on-demand movies. (**[0039]**)

Consider **claim 6**, Novak clearly teaches the software platform performs on the media content one or more of accessing, sending, constructing the user-defined layout of the media content, displaying, text overlaying, voice overlaying, channel naming, managing authorship rights, managing media rights, managing billing services, and/or integrating the user-defined selection into the user-defined layout. (**[0077]-[0086]**)

Consider **claim 7**, Novak clearly teaches the user-defined layout comprises a channel view layout. (**Fig. 8**)

Consider **claim 8**, Novak clearly teaches the software platform can process a plurality of user-defined selections from the media content. (**The user selects media to view, [0085].**)

Consider **claim 9**, Novak clearly teaches each user-defined selection corresponds to a user-specific authentication information. (**Only authorized users may access the media content, [0084].**)

Consider **claim 10**, Novak clearly teaches the authentication information comprises one or more of a pin code, a voice key code, and/or a password. (**[0084]**)

Consider **claim 11**, Novak clearly teaches the consumption at the second geographic location comprises displaying the media content to the second user at the second geographic location. (**[0070]**)

Consider **claim 12**, see claim 1.

Consider **claim 13**, Novak clearly teaches the at least one processor sends the user-defined selection to the first communication device for display in the user-defined layout. **(Content is uploaded to a server in a user-defined layout, [0078].)**

Consider **claim 14**, Novak clearly teaches the at least one processor determines whether to send the user-defined selection to the second communication device communicatively coupled to the communication network. **(Subscribed end users receive the EPG 153, [0080].)**

Consider **claim 15**, see claim 4.

Consider **claim 16**, Novak clearly teaches a system for supporting multiple users of a communication device, comprising:

a first display communicatively coupled to a first communication device, the first communication device associated with a first user;  
a second display communicatively coupled to a second communication device, the second communication device associated with a second user;  
**(Fig. 1: STB 152 is connected to TV 154, [0032]. Fig. 3: There are multiple STBs 308.)**

a communication network communicatively coupled to the first communication device and the second communication device; **(Fig. 3: All STBs 308 are communicatively coupled to the Internet 302, [0045].)**

media content disposed in one or more of the communication network, the first communication device and/or the second communication device;  
**(Media content can be stored in the STB, Fig. 1 [0032], or on the network, Fig. 3 [0047].)**

a software platform residing on the first communication device **([0077])**, the software platform is operable to receive information relating to a user-defined selection from the media content **(Fig. 11: Block 114, [0085])** and wherein the selection from the media content is defined by the first user **([0062])** and corresponds to authentication information received from the first user. **(Only authorized users can view the content, [0084])**

However, Novak does not explicitly teach the software platform is operable to push content arranged in user-defined layout, directly via the communication network to at least a second communication device associated with a second user at a second geographic location for consumption at the second geographic location.

In an analogous art, Ellis, which discloses a system for video distribution, clearly teaches the software platform is operable to push content arranged in the user-defined layout, directly via the communication network to at least a second communication device associated with a second user at a second geographic location for consumption at the second geographic location. **(Fig. 7: Contributor equipment 102 selects when to push personal television channels to viewer equipment 104. The video content can be sent directly with out initially transmitting the content to server equipment. col. 5 lines 18-22, col. 7 lines 27-47, col. 13 line 66 to col. 14 line 22)**

Therefore, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to modify the system of Novak by pushing content arranged in the user-defined layout, directly via the communication network to at least a second communication device associated with a second user at a second geographic location for consumption at the second geographic location, as taught by Ellis, for the benefit of distributing a personal television channel without need of network storage devices.

Consider **claim 17**, see claim 2.  
Consider **claim 18**, see claim 7.  
Consider **claim 19**, see claim 4.  
Consider **claim 20**, see claim 5.  
Consider **claim 21**, see claim 6.  
Consider **claim 22**, see claim 11.  
Consider **claim 23**, see claim 13.  
Consider **claim 24**, see claim 7.  
Consider **claim 25**, see claim 8.  
Consider **claim 26**, see claim 9.

Consider **claim 27**, Novak clearly teaches the limitations in common with claims 1, 12 and 16. Further it is inherent in Novak that a second password maybe entered to access a second media content.

Consider **claim 28**, Novak clearly teaches the first user-defined layout and the second user-defined layout comprise a channel view layout. **(Fig. 8)**

Consider **claim 29**, see claim 13.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).



A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN SCHNURR whose telephone number is (571)270-1458. The examiner can normally be reached on M-F 9a-5p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John W. Miller/  
Supervisory Patent Examiner, Art Unit 2421

JRS